



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2018-0565]

Lifejacket Approval Harmonization

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard is finalizing the policy harmonizing personal flotation device (PFD) standards between the United States and Canada by accepting a new standard for approval of PFDs. As a result, PFD manufacturers can meet a single North American standard instead of separate standards for the United States and Canada. The standard is outlined in a policy letter with a supporting deregulatory savings analysis. This policy letter is intended to promote the Coast Guard's maritime safety and stewardship missions. This policy does not affect existing PFD approvals and does not require any action on the part of boaters or mariners who have approved PFDs on board.

ADDRESSES: Documents mentioned in this notice, and all public comments, are available in our online docket at <http://www.regulations.gov>, and can be viewed by following that website's instructions.

FOR FURTHER INFORMATION CONTACT: For information about this document call or e-mail Jacqueline Yurkovich, Coast Guard; telephone 202-372-1389, e-mail Jacqueline.M.Yurkovich@uscg.mil.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2018, the United States Coast Guard (USCG) published a Notice of Availability and Request for Comments (83 FR 41095) announcing that it was harmonizing PFD standards between the United States and Canada by accepting a new standard for approval of PFDs. The Coast Guard outlined the new standard in a draft policy letter with a supporting deregulatory savings analysis and made those documents available for public comment. The Coast Guard received input from six commenters.

Discussion of Policy and Comments

The Notice of Availability (83 FR 41095) summarizes the background of the policy letter.

During the notice of availability comment period, the Coast Guard received input from six commenters, including mariners, the Life Jacket Association, the National Marine Manufacturers Association, and the Boat Owners Association of the United States. Below are summaries of, and our responses to, those comments.

Four commenters supported the efforts to harmonize the PFD standards with ISO 12402. One commenter also stated that they supported and appreciated the policy language stating that lifejackets already approved would remain in compliance with the new policy. Some commenters also suggested that the Coast Guard should broaden the categories of buoyancy to specifically allow Level 50 and youth inflatable PFDs in appropriate conditions. While the Coast Guard will not include additional categories in this policy letter, we will take the suggestions of the commenters under consideration in a future rulemaking.

One commenter stated that the Coast Guard should address potential confusion in the recreational boating community with regard to the new [policy] that “Adult devices that cannot meet the requirements of Level 70 with inherent buoyancy alone must be marked ‘Approval conditions state that this device must be worn to be counted as equipment required by vessels meeting Transport Canada or USCG regulations.’”¹ As the Coast Guard accepts alternatives to the markings of inflatable PFDs, the commenter urged that consideration should also be given to adding markings that users need to test or inflate the devices regularly in order to be approved for use. The commenter stated that adding markings requiring inflatable PFD testing would be in keeping with current Coast Guard practices, such as those for PFD lights where alkaline batteries must be changed annually for devices to maintain their approval. The commenter concluded that, to this end, the USCG and Transport Canada should consider requiring inflatable PFD manufacturers to add inspection tags, similar to fire extinguisher inspection tags, to their PFDs where owners can record and be reminded of their periodic inspections and tests. Additionally, the commenter stated that the inflatable PFD age requirement of 16 should be lowered to age 13 to close the gap between the age requirement for wearing a PFD, located in 33 CFR 175.15 and the age range for an inflatable PFD because PFD options are more limited in the 13–16 age range. The Coast Guard acknowledges these concerns and suggestions and aims to address any potential confusion about the subject policy in this notice. With regard to adding new requirements that are not discussed in the new standard being accepted, such as for additional marking, testing, and inspection tags, these measures are outside of the scope of the policy letter that is the subject of this

¹ Document number USCG-2018-0565-0008 at <http://www.Regulations.gov> under docket number USCG-2018-0565.

notice. These other measures may, however, be considered in future rulemaking. Similarly, the Coast Guard may consider the appropriateness of inflatable PFDs for wearers under 16 years of age in a future rulemaking.

The Coast Guard also received comments about the deregulatory savings analysis. Specifically, one commenter said that the cost savings analysis projects various hypothetical savings for the manufacturing sector and the U.S. Government without regard for the end users of the equipment (e.g., boaters, their families, insurance companies, and community). The commenter also stated that deregulation proposed to benefit the manufacturers may overlook the intended purpose of life saving equipment and result in more costs to the boating public, the U.S. taxpayers, and the U.S. government. The commenter also suggested other modifications to law and policy that might increase benefits in terms of lives saved—such as improving the rate of wear, improving visibility of PFDs at nighttime, and considering user size and weight.

The Coast Guard acknowledges that this policy letter pertains to producers of lifejackets primarily. Some portion of the cost savings may be passed onto consumers by lowering the final purchase price of lifejackets for consumers; however, the Coast Guard has no data to indicate what share of the cost savings would be passed onto consumers. Additionally, the Coast Guard has no evidence that this policy would harm the boating public. The Coast Guard determined that the PFDs permitted by this policy letter provide equivalent performance to a PFD that meets the requirements of 46 CFR 160.064, 160.076, or 160.077-15. Further, were any share of the cost savings estimated here to be passed onto consumers, the safety of the boating public would be increased as lifejackets would be cheaper. However, the stated goal of the policy letter is harmonization via a

single standard for manufacturers to meet. The Coast Guard will consider this commenter's other suggestions for possible future action.

The commenter also said that the international agreement should factor in tariffs, exchange rates, trade agreements, and currency valuations. It is not clear how such secondary impacts would affect harmonizing PFD standards between the United States and Canada and the commenter did not describe how such secondary impacts were relevant to this particular harmonization. Consequently, the Coast Guard does not believe these secondary impacts are relevant to this issue.

The same commenter said that the lifejackets used in the United States and Canada are used in various water conditions and weather conditions impacting their effectiveness, and that the length of time that a boater has been in the water and the body of water the boater is rescued from all have different characteristics impacting the effectiveness of lifejackets.

The commenter argued the maximum cost savings could be realized by ensuring that each and every boater who is on the water is properly equipped with the correct lifejackets because historically most drownings involve boaters without lifejackets. The Coast Guard considers such additional requirements to be outside the scope of this policy letter.

Cost Savings Analysis

Since the affected population and projected cost-savings estimates have remained the same from when we published the deregulatory savings analysis in August 2018, we have retained the projected cost-saving estimates for this notice, which we present below. As stated in the aforementioned economic analysis, which is available in the public

docket, we estimate the annual net cost savings to the U.S. industry to be \$660,965 in 2016 dollars using a 7-percent discount rate over a 10-year period of analysis. We estimate the total discounted net cost savings to U.S. industry over a 10-year period of analysis to be between \$4.6 million and \$5.7 million at 7- and 3- percent discount rates, respectively.

We estimate the annual net cost savings to the U.S. government to be \$8,571 per year over a 10-year period of analysis at a 7-percent discount rate. We estimate the total discounted net cost savings to the U.S. government to be between \$60,000 and \$73,000 at 7- and 3- percent discount rates, respectively.

We also estimate an annual net cost savings to foreign manufacturers of \$406,758 in 2016 dollars using a 7-percent discount rate over a 10-year period of analysis. We estimate the total discounted net cost savings to foreign industry over a 10-year period of analysis to be between \$2.9 million and \$3.5 million at 7- and 3- percent discount rates, respectively.

We estimate the costs to industry from this policy letter as a one-time switching cost between \$40,000 and \$41,000 at 7- and 3- percent discount rates, respectively.

Under a perpetual period of analysis, we estimate the total annualized cost savings

of our policy letter to the U.S. economy to be \$546,065 in 2016 dollars, using a 7-percent discount rate, and discounted back to 2016.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: November 7, 2019

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

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